



U.S. Citizenship  
and Immigration  
Services



FILE:



Office: Los Angeles, California

Date: OCT 26 2004

IN RE: Applicant:



APPLICATION:

Application for Status as a Permanent Resident pursuant to Section 1104 of the Legal Immigration and Family Equity (LIFE) Act of 2000, Pub. L. 106-553, 114 Stat. 2762 (2000), amended by LIFE Act Amendments, Pub. L. 106-554, 114 Stat. 2763 (2000).

ON BEHALF OF APPLICANT:

Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. The file has been returned to the Los Angeles District Office. If your appeal was sustained, or if the matter was remanded for further action, you will be contacted. If your appeal was dismissed, you no longer have a case pending before this office, and you are not entitled to file a motion to reopen or reconsider your case.



Robert P. Wiemann, Director  
Administrative Appeals Office

**PUBLIC COPY**

Identifying data deleted to  
prevent disclosure of warranted  
invasion of personal privacy

**DISCUSSION:** The application for permanent resident status under the Legal Immigration and Family Equity (LIFE) Act was denied by the District Director, Los Angeles, California. It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be dismissed.

An applicant for permanent resident status under section 1104 of the LIFE Act must establish that before October 1, 2000, he or she filed a written claim with the Attorney General for class membership in one of the following legalization class-action lawsuits: *Catholic Social Services, Inc. v. Meese*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) ("CSS"), *League of United Latin American Citizens v. INS*, vacated sub nom. *Reno v. Catholic Social Services, Inc.*, 509 U.S. 43 (1993) ("LULAC"), or *Zambrano v. INS*, vacated sub nom. *Immigration and Naturalization Service v. Zambrano*, 509 U.S. 918 (1993) ("Zambrano"). See section 1104(b) of the LIFE Act and 8 C.F.R. § 245a.10. The record establishes that the applicant filed a timely claim in 1990 for class membership in CSS.

An applicant for permanent resident status under section 1104 of the LIFE Act must also establish that that he or she entered the United States before January 1, 1982 and resided in this country continuously in an unlawful status from before January 1, 1982 through May 4, 1988. See section 1104(c)(2)(B)(i) of the LIFE Act and 8 C.F.R. § 245a.11(b). The "continuous residence" requirement is further specified in 8 C.F.R. § 245a.15(c)(1):

An alien shall be regarded as having resided continuously in the United States if no single absence from the United States has exceeded forty-five (45) days, and the aggregate of all absences has not exceeded one hundred and eighty (180) days between January 1, 1982, and May 4, 1988, unless the alien can establish that due to emergent reasons, his or her return to the United States could not be accomplished within the time period allowed.

8 C.F.R. § 245a.12(e) provides that "[a]n alien applying for adjustment of status under [section 1104 of the LIFE Act] has the burden of proving by a preponderance of the evidence that he or she has resided in the United States for the requisite periods. . . . The inference to be drawn from the documentation provided shall depend on the extent of the documentation, its credibility and amenability to verification." As explained in *Matter of E-M-*, 20 I & N Dec. 77, 80 (Comm. 1989), "when something is to be established by a preponderance of the evidence it is sufficient that the proof only establish that it is probably true." The decision went on to declare that, in the absence of contemporaneous documentation, affidavits are "relevant documents" which warrant consideration in legalization proceedings. *Id.* at 82-83. Preponderance of the evidence has also been defined as "evidence which as a whole shows that the fact sought to be proved is more probable than not." Black's Law Dictionary 1064 (5<sup>th</sup> ed. 1979).

The district director concluded that the applicant failed to establish, by a preponderance of the evidence, that he entered the United States before January 1, 1982 and resided in the country continuously from then through May 4, 1988. Based on the evidence of record, the district director found that the applicant first entered the United States with a C-1 (alien in transit) visa in 1984. This finding was based on the applicant's sworn statement in an interview on November 6, 2001 to determine his eligibility for LIFE legalization, that he first entered the United States in mid-1981, departed the country in 1983, and re-entered the United States in mid-1984 with a C-1 visa. In his statement the applicant indicated that he departed and re-entered the United States several more times up to 1987, after which he stayed in the United States.

In his appeal the applicant indicated that he has lived in the United States for a long time, that his children were born in this country, and that he wished to be granted the "privilege to continue living" in the United States. He did not address the issue of his C-1 visa (and his numerous departures and re-entries during the 1980s), which appeared irreconcilable with his claim to have resided continuously in the United States from

before January 1, 1982 through May 4, 1988, as required by section 1104(c)(2)(B)(i) of the LIFE Act and further defined in 8 C.F.R. § 245a.15(c)(1).

As specified in 8 C.F.R. § 103.3(a)(3)(iv), any appeal that fails to state the reason for appeal, or is patently frivolous, will be summarily dismissed. The applicant in this appeal has not addressed the reasons for the denial of his application. Nor has he provided any additional evidence for the AAO to consider. Thus, the appeal is without explanation or support and must be summarily dismissed.

**ORDER:** The appeal is dismissed. This decision constitutes a final notice of ineligibility.